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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,921	02/04/2002	John H. Schneider	769-295	4346

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EXAMINER

SIPOS, JOHN

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/23/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,921

Applicant(s)

SCHNEIDER ET AL.

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

Claims 1-30 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to patent to Malin (6,185,907-cited by applicant) in view of Ausnit (4,876,842) or Belmont (6,427,421). The patent to Malin shows a method and apparatus for forming packages which comprises a means for feeding a film (14/16) in a horizontal plane, means for placing a product on the film (column 3, line 1 et seq.), means for feeding a continuous zipper to the longitudinal edge of the film (38/40), means for folding the film along its longitudinal center (36), means for sealing the zipper to the film (84/86), means for sealing the longitudinal edges of the folded film (68/70) and means for sealing and cutting the packages crosswise (94/96). The Malin operation differs from the claimed one in the position of the zipper on the film.

The patent to Ausnit shows a package forming apparatus which comprises a means for providing a continuous film 14 in a horizontal plane, means for placing a product on the film (15), means for longitudinally folding the film (38), means for feeding a continuous zipper adjacent the longitudinal fold of the film (24), means for sealing the zipper to the film (42), means for sealing the longitudinal edges of the folded film (40) and means for sealing and cutting the packages crosswise (12).

The patent to Belmont shows a package forming apparatus which comprises a means for providing a continuous film 14 in a vertical plane, means for longitudinally folding the film along its center (column 4, line 26), means for longitudinal feeding a continuous zipper to the film (14). The patent teaches alternative embodiments wherein the continuous zipper is fed either to the longitudinal edge of the film (Figures 3a and 3c) or adjacent the central fold of the film (Figure 3c).

In both the Ausnit and Belmont operations the feeding of the zipper inside the longitudinal fold provides protection from contamination to the zipper in the finished package. It would have been obvious to one of ordinary skill in the art to position the zipper of Malin adjacent the fold of the film as taught by either Ausnit or Belmont to provide protection to the zipper.

The positioning of the zipper of Malin adjacent the longitudinal fold as taught by the secondary references, places the zipper also opposite the longitudinal edges. These edges are finally sealed by the longitudinal sealers 64/66 of Malin.

The use of sliders and the related specifics of the bag, as recited in claims 3-10, 13-20 and 23-30 are well known in the zipper/slider/bag forming art and would have been obvious to use in the process of the Malin and Ausnit /Belmont combination for their inherent benefits.

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### ***RESPONSE TO APPLICANT'S ARGUMENTS***

Applicant's arguments that in the secondary references to Ausnit and Belmont the longitudinal edges are not opposite the zipper are not persuasive since these references were used to show the positioning of the zipper near the fold in the film so that the zipper would be protectively covered by the fold. These references were not applied against the claims to show the basic packaging process, e.g. the sequence of the various steps/mechanism or the location of the longitudinal seal, since these limitations are fully shown by the basic reference to Malin. The folding of the film of Malin along its centerline places the longitudinal edges opposite the center fold and the placement of the zipper along the fold as taught by the secondary references positions the zipper opposite the longitudinal edges.

Application/Control Number: 10/066,921

Page 4

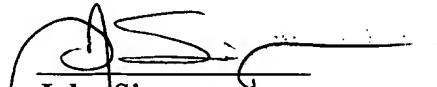
Art Unit: 3721

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**

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